

NO. 5:09-CV-346-FL

Am. Joint Proposed Pretrial Order 13.

The parties inform that defendant did not disclose Mr. Fisher in its Federal Rule of Civil Procedure 26(a)(1)(A)(i) disclosures. Nor apparently did defendant ever identify Mr. Fisher by Rule 26(e) supplemental disclosure. Further, Mr. Fisher was not identified in defendant's pretrial disclosures, filed February 10, 2012.

Where it appears from the parties' submission that defendant did not disclose Mr. Fisher as a potential witness until March 13, 2012, less than two weeks before trial, the court agrees that addition of Mr. Fisher as a witness would unfairly prejudice plaintiff. Accordingly, defendant's motion to substitute a witness (DE # 78) is DENIED.

Upon consent of plaintiff, and pursuant to Rule 32(a)(4), defendant may read into the record the deposition testimony of Ms. Robinson, subject of course to the Federal Rules of Civil Procedure and Federal Rules of Evidence.

SO ORDERED, this the 16th day of March, 2012.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style.

LOUISE W. FLANAGAN
United States District Judge